HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, C.J.

WRIT PETITION NO.840 OF 2006

PETITIONER		Jitendra Kumar Sahu, S/o. Late Shri Ram Das Sahu, Aged about 29 years, R/o. Opp. Old Malaria Office, BTI Road, Mahasamund, Distt. Mahasamund. (C.G.)
	Versus	
RESPONDENTS	1.	State of Chhattisgarh – Through the Secretary, Public Works Department, DKS Bhawant, Raipur (C.G.)
	2.	The Executive Engineer, Public Works Department, National Highway Bridge Construction Division No.1, Raipur (C.G.)
	3.	The Union of India – Through the Secretary, Road Transport and Highway, New Delhi.

Present : Shri P. Diwakar, learned Sr. Counsel with Shri P.R. Patankar, learned counsel for the petitioner.

(ORAL ORDER)
(Passed on 17th February, 2006)

The petitioner claims to be a businessman. In this writ petition, he has assailed validity of the auction notice issued by the Executive Engineer, Public Works Department, National Highway Bridge Construction Division No.1, Raipur, the 2nd respondent herein, dated 31.01.2006 for auctioning the right of collection of toll tax for the period from 01.04.2006 to 31.03.2007 with regard to Sakti Nala Pool, situate at point no.235/2 K.M. in the Nation Highway No.6.

(2) Shri P. Diwakar, learned Sr. counsel for the petitioner while assailing the validity of the impugned auction notification, would contend that the following conditions specified in the impugned auction notification are totally arbitrary, unreasonable and violative of Article 14 postulates. The aforesaid conditions are as follows:

(i) Condition No.1 makes it mandatory of depositing of security amount of Rs.24.97 lakhs in favour of the Executive Engineer, by way of FDR or interest bearing security deposits.

(ii) Condition No.2 is about bank guarantee/interest bearing security deposits of Rs.62.43 lakhs having validity till 31.03.2007.

(iii) Condition No.3 makes it mandatory for solvency certificate of Rs. 187.28 lakhs issued by the competent revenue authority or bank guarantee/interest bearing security deposit.

(iv) Condition No.4 talks about the competency certificate and the character verification certificate.

(v) Condition No.5 talks about the participants who can bid through the power of attorney also.

In addition, learned Sr. counsel would also contend that the 2nd respondent before issuing the auction notification did not seek approval of the Govt. of India and on that count also, the impugned action is vitiated. It is repeatedly held by the Constitutional Courts that the conditions imposed by the State Authorities while inviting tenders or parting with their largesse, the Courts cannot lightly interfere with them and a reasonable latitude should be given to the State Authorities to prescribe/ impose the conditions to sub-serve the public interest and to ensure that the contracts awarded to the 3rd parties are properly performed and good returns for the largesse of the State are received. The contention is that even according to the 3rd respondent, the bid

fixed by the Government itself is 249.70 lakhs, whereas in order to fulfill the aforementioned conditions a tenderer has to deposit/ furnish bank guarantee in a sum of Rs. 274.68 lakhs. The Court cannot with a mathematical precision review the conditions imposed by the 2nd respondent for the bidders in order to participate in the auction. Be that as it may, the gap between the above two figures could not lead to an inference that action of the 2nd respondent is arbitrary and unreasonable. As regards second contention is concerned, suffice it to state that though it was claimed by the petitioner that prior approval of the Govt. of India is necessary before issuing auction notification, that plea remains as a plea only without any proof. Even in the course of the arguments, Shri P. Diwakar, learned Sr. Counsel was not in a position to trace the obligation of the 2nd respondent to obtain prior approval of the Govt. of India before issuing impugned notification with reference to any statute or administrative instruction. There is no merit in this writ petition. It is accordingly dismissed. No costs.

Sd/-
Chief Justice

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